HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.9980 OF 2007

Between:

Yerra Rama Rao

. . .Petitioner

AND

Vijayawada, Guntur, Tenali, Mangalagiri
Urban Devleopment Corporation, Vijayawada and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri P.Venugopal

5th June, 2007

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Per G.S.SINGHVI, CJ

The petitioner, who is a resident of H.No.15-18, Asha Hospital Road, Gollapudi, Vijayawada Rural Mandal and is engaged in some business, has filed this petition under Article 226 of the Constitution of India for issue of a mandamus to respondent Nos.1 and 2 to demolish the alleged illegal construction made by respondent No.3 – Smt. Mullapudi Laxmi Kumari in property bearing Revenue Survey No.583/4, Door Nos.15-11 to 15-17 situated in Gollapudi Village, Vijayawada Rural Mandal, Vijayawada, Krishna District.

The aforementioned prayer of the petitioner is founded on his assertion that respondent No.3 has constructed building in violation of the sanctioned plan, that action initiated by respondent No.2 for demolition of the illegal construction became subject matter of Writ Petition No.14094 of 2006, which was disposed of by the learned Single Judge on 5-3-2007 by directing respondent No.2 to pass appropriate order after giving opportunity of hearing to respondent No.3 with a direction to the latter not to raise any further construction and that despite the Court's order, respondent Nos.1 and 2 have not taken action to demolish the illegal construction.

We have heard Shri P.Venugopal, learned counsel for the petitioner and carefully scanned the record.

It is borne out from the record that after disposal of Writ Petition No.14094 of 2006, respondent No.3 alienated the disputed property to respondent Nos.4 and 5 and the civil suit for injunction (O.S.No.335 of 2007) filed by them is pending in the Court of Senior Civil Judge, Vijayawada.

A perusal of the plaint of O.S. No.335 of 2007 shows that the petitioner has been impleaded as defendant No.2. He is also a party to the application for temporary injunction filed by respondent Nos.4 and 5. This being the position, it is open to the petitioner to file written statement to contest the suit and the application for temporary injunction, and we do not find any justification to entertain the prayer made in the writ petition and issue direction in terms of the prayer made therein because the same will adversely affect the proceedings of the pending suit.

With the above observations, the writ petition is dismissed leaving the petitioner free to contest the suit and the interlocutory application filed by respondent Nos.4 and 5.

As a sequel to dismissal of the main petition, WPMP No.12663 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

5th June, 2007

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